

FILED

United States District Court

NOV 16 2005

MIDDLE

DISTRICT OF

ALABAMA

CLERK

U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

v.

CASE NUMBER: 2:05msj/41-W

DELMER ANTONIO REYES-GUTIERREZ


I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about November 14, 2005 in Covington county, in the Middle District of Alabama defendant(s) did, (Track Statutory Language of Offense)

being an alien, knowingly re-enter the United States after having been deported, without obtaining the permission of the Secretary of Homeland Security or the Attorney General of the United States,
in violation of Title 8 United States Code, Section(s) 1326(a).

I further state that I am a(n) ICE Officer and that this complaint is based on the following facts:
Official Title

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No


Signature of Complainant

Sworn to before me and subscribed in my presence,

November 16, 2005


at Montgomery, Alabama

Date

City and State

Susan Russ Walker, U.S. Magistrate Judge

Name and Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT

I, Blake Diamond, being duly first sworn, do hereby state and affirm that:

I am a duly sworn Special Agent of the U.S. Immigration and Customs Enforcement (ICE) assigned to the office of the Assistant Special Agent in Charge - Mobile, Alabama. I have been employed as a federal agent for approximately ten years. My principal assignment has been to conduct criminal investigations of persons involved in violation of the United States Code relating to Title 8 - Aliens and Nationality.

On November 14, 2005, Andalusia, Alabama Police Officer Jeff Daniel contacted me concerning an arrest he made in Andalusia, Alabama.

Officer Daniels informed me that on November 13, 2005, he was dispatched to a general disturbance at the Sunset Inn on the West By-Pass in Andalusia, Alabama. Upon his arrival he observed a Hispanic male fleeing the scene on foot and several other Hispanic males pointing at this person as he ran away. Officer Daniels caught this individual after a brief chase at which time the suspect resisted arrest and became physical with Officer Daniels as he tried to place him into handcuffs. Officer Daniels had to use a chemical weapon on this subject in order to get him under control and to place him into custody. This individual was later identified as Delmer Antonio REYES-Gutierrez, who claimed to be a native and citizen of Mexico.

Further investigation revealed that REYES-Gutierrez had busted a window out of a truck that belonged to his employer, Adrian Betancourt. He also broke out a window in one of the hotel rooms. REYES-Gutierrez was arrested and charged with Public Intoxication, Resisting Arrest, and Obstructing Government Operations. He was then transported to the Covington County Jail in Andalusia, Alabama.

On November 14, 2005, I submitted a Form I-247 Immigration Detainer to the Covington County Jail.

On November 14, 2005, REYES-Gutierrez appeared in front of the Andalusia Municipal Court and pled guilty to all three charges.

On November 15, 2005, I interviewed REYES-Gutierrez at the Covington County Jail. Upon questioning, he freely and voluntarily admitted to being a native and citizen of El Salvador, who last entered the United States illegally near Laredo, Texas on or about March 01, 2004. He claimed he had never been arrested nor deported from the United States. He claimed he did not possess any documents allowing him to legally enter, reside, or work in the United States. I also conducted an IDENT inquiry using REYES-Gutierrez' index fingerprints and photo. The inquiry revealed that the U.S. Border Patrol arrested him on March 15, 2003 near Madero, Texas.

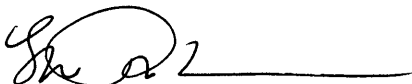
I conducted a records inquiry through ICE indices and was informed that on July 21, 2003, REYES-Gutierrez was deported from the United States to El Salvador at Laredo, Texas. A review of the official file indicates that REYES-Gutierrez failed to obtain permission from the Attorney General of the United States or the Secretary for the Department of Homeland Security to reenter the United States legally.

Delmer Antonio REYES-Gutierrez is in violation of, but not limited to, Title 8 U.S.C. 1326(a), reentry of deported alien without the consent of the Attorney General of the United States or the Secretary of the Department of Homeland Security. The penalty, upon conviction, for this offense shall be a fine under Title 18, or imprisoned not more than 2 years, or both.



Blake Diamond, Affiant
U.S. Department of Homeland Security
Immigration and Customs Enforcement

Sworn to and subscribed before me
this 16th day of November, 2005.



United States Magistrate Judge